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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|----------------------|---------------------|------------------|
| 09/689,722      | 10/13/2000  | Robin Anthony Cooper | 70272-0057          | 6813             |

7590

01/21/2003

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EXAMINER

LEE, EDMUND H

ART UNIT

PAPER NUMBER

1732

DATE MAILED: 01/21/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/689,722

Applicant(s)

COOPER ET AL.

Examiner

EDMUND H LEE

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1732

-- The MAILING DATE of this communication appears on the cover sheet with the corresponding address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 01 November 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) 6-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_
- ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_

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### DETAILED ACTION

1. Claims 6-15 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in Paper No. 6.
2. Applicant's election without traverse of species (a), claims 1-5, in Paper No. 6 is acknowledged.
3. The abstract of the disclosure is objected to because it contains claim language such as "comprising". Such language should be deleted. Correction is required. See MPEP § 608.01(b).
4. Claim 4 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrase "semi-liquid" (cl 4, ln 3) is indefinite because it is unclear what is meant by the term. The instant specification does not indicate the metes and bounds of the phrase, thus the scope of the above phrase is unascertainable.

Clarification and/or correction is required.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 1-2 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by JP 7-241916. JP 7-241916 teaches the claimed process including a method of making a

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cosmetic cover (bath tub or waterproof pan) comprising coating the interior of a mold with successive layers of one or more curable materials, wherein at least an outer layer of the successive layers is provided with means to create a non-homogenous color effect in that layer, and at least an inner layer of the successive layers is provided with means to create a background color, for the outer layer, in the inner layer (abstract; figs 1-6); coating 3 or more layers onto the mold (figs 1-6); and using colored short fibers to create the non-homogenous color effect (abstract; figs 1-6).

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 3-4 are rejected under 35 U.S.C. 103(a) as being unpatentable over JP 7-241916 as applied to claim 1 above and in further view of Fishel et al (USPN 6187244). JP 7-241916 teaches using liquid unsaturated polyester resin as the curable material for one of the layers (abstract); and using liquid unsaturated polyester resin mixed with short fiber as one of the layers (abstract)--as a note, this mixture constitutes a semi-liquid material. However, JP 7-241916 does not teach using a monomer. Fishel et al teach a waterproof shower pan made of a monomer (abstract; col 2, lns 1-5). Since JP 7-241916 and Fishel et al are analogous with respect to waterproof pans, it would have been obvious to one of ordinary skill in the art at the time the invention was made to mold the pan of JP 7-241916 from a monomer as taught by Fishel et al instead of the

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unsaturated polyester of JP 7-241916 in order to form a flexible thermoplastic waterproof pan having improved durability and strength.

9. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. DE 3813851 teaches molding a panel having different color intensity thereon.

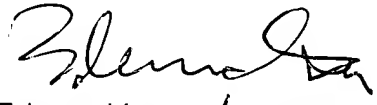
10. Any inquiry concerning this communication or earlier communication from the examiner should be directed to Examiner Edmund Lee whose telephone number is (703) 305-4019. The examiner can normally be reached on Monday-Wednesday and Friday from 8:00 AM to 4:00 PM. The fax number for Examiner Edmund Lee is (703) 872-9615

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Jan H. Silbaugh, can be reached on (703) 308-3829.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0661.

EHL

January 13, 2003

  
Edmund Lee 1/13/03

Patent Examiner, AU 1732